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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,771	12/10/2001	Heinz Juergen Niggli	1454.1101	7093

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WASHINGTON, DC 20005

EXAMINER
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HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/937,771

Applicant(s)

NIGGL, HEINZ JUERGEN

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 6, 2005 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4 & 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In Claim 4, the term "slit" is deemed a new matter submission and is not supported in the drawings or specification as originally filed. Webster's II New Riverside University Dictionary 1994 defines a *cutout* as "something cut out or intended to be cut out", while a *slit* is defined as "a long narrow cut, tear, or incision". Basically, a *cutout* is a structure where a portion of material is physically removed to define the structure, whereas a *slit* does not have any material removed to define the structure. The position is taken that both terms have different

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meanings as demonstrated, and may not be used interchangeably as alleged by applicant. Accordingly, applicant is required to cancel the new matter in the reply to this office action. Consequently, Claim 6 is rejected because it is dependent upon a rejected base claim.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3 & 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, line 9, the phrase "the angled extension" does not have a proper antecedent basis. In Claim 1, lines 11-12, the phrase "which hook shaped extensions" is unclear and confusion as presently worded. In Claim 6, line 2, the phrase "the base part" does not have a proper antecedent basis. Consequently, the remaining claims are rejected because they are dependent upon an indefinite claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moran Jr., [U.S. Patent No. 5,316,165] in view of Krantz [U.S. Patent No. 1,557,066]. Moran (figures 1-20) teaches of a mechanical connection comprising: a plastic casing having a base part (12), first and second side walls (16, 24 & 20, 28) and a rear wall

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(14, 22) such that when assembled, each side wall adjoins one side of the rear wall, each side wall having a top rear corner in a region displaced from the base part and adjacent to where the side wall joins the rear wall when assembled (see fig. 3), the base part, the first and second side walls and the rear wall all being formed from a single part; a cutout (32) formed in each of the side walls in the region of the top rear corner; an angled section (22) formed on the rear wall and extending across a top of the rear wall such that when assembled, the angled extension extends from the first side wall to the second side wall (note fig. 14 for example); and hook shaped extensions (30) provided at sides of the angled section, the hook shaped extensions snap into the cutouts of the side walls when the rear wall is swung into position, wherein the angled section extends out and away from the rear wall when assembled [at 90 degrees to the rear wall – see spec.] and the hook-shaped extensions extend out of the angled section and then extend back toward said rear wall [note inwardly inclined angle]. The extensions are sloped such that the width increases from a front to a back of the extensions [viewed as wider at the base than at the tip of the extensions]. The extensions are formed integrally with the angled section. The angled section extends substantially parallel to the base part when assembled. Moran teaches applicant's inventive claimed structure as disclosed above, but does not show the casing as being formed out of sheet-metal. Krantz (figures 1-3) is cited as an evidence reference to show that it was known at the time the invention was made to form a casing out of a single sheet [blank] of sheet-metal. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the material of Moran so as to utilize any of the known array of materials, one being metal, as taught by Krantz because the metal

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material would allow the casing to be punched from a single sheet of material and then folded to form the casing. The substitution of one material for another known material has been held to be within the general skill of a worker in the art; furthermore, the substitution of one material for another would not adversely affect the function of the casing being formed in this instance.

8. Claims 1 & 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson [U.S. Patent No. 4,197,980] in view of Krantz [U.S. Patent No. 1,557,066]. Johnson (figures 1-6) teaches of a mechanical connection comprising: a cardboard casing having a base part (12), first and second side walls (11 & 11') and a rear wall (15, 16) such that when assembled, each side wall adjoins one side of the rear wall, each side wall having a top rear corner in a region displaced from the base part and adjacent to where the side wall joins the rear wall when assembled (see fig. 1), the base part, the first and second side walls and the rear wall all being formed from a single part; a cutout (22) formed in each of the side walls in the region of the top rear corner [depends upon viewed orientation]; an angled section (16) formed on the rear wall and extending across a top of the rear wall such that when assembled, the angled extension extends from the first side wall to the second side wall (note fig. 1); and hook shaped extensions (20) provided at sides of the angled section, the hook shaped extensions snap into the cutouts of the side walls when the rear wall is swung into position, wherein the angled section extends out and away from the rear wall when assembled [see fig. 2] and the hook-shaped extensions extend out of the angled section and then extend back toward said rear wall [fig. 2]. The extensions are formed integrally with the angled section. Johnson teaches applicant's inventive claimed structure as disclosed above, but does not show the casing as being formed out of

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sheet-metal. Krantz (figures 1-3) is cited as an evidence reference to show that it was known at the time the invention was made to form a casing out of a single sheet [blank] of sheet-metal. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the material of Johnson so as to utilize any of the known array of materials, one being metal, as taught by Krantz because the metal material would allow the casing to be punched from a single sheet of material and then folded to form the casing. The substitution of one material for another known material has been held to be within the general skill of a worker in the art; furthermore, the substitution of one material for another would not adversely affect the function of the casing being formed in this instance.

9. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magers [U.S. Patent No. 2,135,140] in view of Krantz [U.S. Patent No. 1,557,066]. Magers (figures 1-11) teaches of a mechanical connection comprising: a casing having a base part (10), first and second side walls (12) and a rear wall (11, 13) such that when assembled, each side wall adjoins one side of the rear wall, each side wall having a top rear corner in a region displaced from the base part and adjacent to where the side wall joins the rear wall when assembled (see fig. 1), the base part, the first and second side walls and the rear wall all being formed from a single part (fig. 6); a cutout (18) formed in each of the side walls in the region of the top rear corner [depends upon viewed perspective – the cutout defines corners]; an angled section (13) formed on the rear wall and extending across a top of the rear wall such that when assembled, the angled extension extends from the first side wall to the second side wall; and hook shaped extensions (23) provided at sides of the angled section, the hook shaped

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extensions snap into the cutouts of the side walls when the rear wall is swung into position, wherein the angled section extends out and away from the rear wall when assembled [at 90 degrees to the rear wall – see fig. 1] and the hook-shaped extensions extend out of the angled section and then extend back toward said rear wall [fig. 1]. The extensions are sloped such that the width increases from a front to a back of the extensions [viewed as wider at the base than at the tip of the extensions]. The extensions are formed integrally with the angled section. The angled section extends substantially parallel to the base part when assembled. Magers teaches applicant's inventive claimed structure as disclosed above, but does not show the casing as being formed out of sheet-metal [Magers is silent]. Krantz (figures 1-3) is cited as an evidence reference to show that it was known at the time the invention was made to form a casing out of a single sheet [blank] of sheet-metal. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the material of Magers so as to utilize any of the known array of materials, one being metal, as taught by Krantz because the metal material would allow the casing to be punched from a single sheet of material and then folded to form the casing. The substitution of one material for another known material has been held to be within the general skill of a worker in the art; furthermore, the substitution of one material for another would not adversely affect the function of the casing being formed in this instance.

### ***Response to Arguments***

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.



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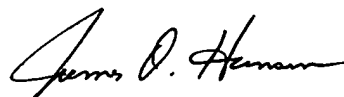
**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chu and Green et al., describe foldable casings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
May 13, 2005